IN THE HIGH COURTOF PUNJAB AND HARYANA, CHANDIGARH.

CWP No.16756 of of 2006
Date of decision: 4.12.2007

Hardeep Kaur

....Petitioner.

vs.

State of Punjab and others

..Respondents

CORAM: HON'BLE MR.JUSTI CE J.S.KHEHAR.
HON'BLE MR.JUSTICE SHAM SUNDER.

Present: Mr.K.S.Hissowal, Advocate, for the petitioner.

Mr.K.S.Dadwal, Addl.Advocate General,Punjab, for respondent Nos. 1 to 3.

None for respondent No.4.

--

J.S.KHEHAR,J. (Oral)

Through the instant writ petition the petitioner has impugned the process of selection adopted by the respondents in furtherance of the advertisement dated 26.5.2006 (Annexure P1). It is the vehement contention of the learned counsel for the petitioner that the respondents have clearly violated the mandate of selection expressed in the advertisement itself. In the aforesaid context, the Court's attention has been invited to the following conditions laid down in the advertisement:-

> " The appointment is being made through Zila Parishad under Punjab Panchayati Raj Primary Teachers (recruitment and Conditions of Service)Rules, 2006 and it should not be

> considered an employment from the State Govt. The appointment will be made schoolwise and it will not be transferable. The candidate from the village where the school is available will be given preference and in case the candidate is not available then the candidate considering with adjoining village and town will be considered. After that the candidate hailing from block and the adjoining town of the block will be considered. Only the candidates concerned with District and Permanent inhabaitants will be eligible for this. Then the candidate hailing from Chandigarh and from the adjoining districts Ropar and Mohali can apply on separate applications. The candidates concerned with new district Mohali can apply as per their status before becoming Mohali a new district. The posts can be increased or decreased."

Based on the aforesaid extract of the advertisement, it is the contention of the learned counsel for the petitioner that the candidates belonging to a particular village have been ignored and persons from other villages in the same district have been accommodated.

We have considered the aforesaid contention of the learned counsel for the petitioner. The manner in which selections and appointments have been made, as is apparent from the extracted portion of the advertisement hereinabove, is based on rule 11 of the Punjab Panchayati Raj Primary Teahers (Recruitment and Conditions of Service)Rules, 2006 (hereinafter referred to as "the 2006 Rules"). A perusal of 2006 Rules reveals that the manner of appointment, as has been depicted in the advertisement, flows from Rule 11 of 2006 Rules. In implementing Rule 11 of the 2006 Rules, the respondents have followed VI steps in the selection process which were subject matter of challenge at the hands of persons similarly situated as the petitioner in Mandeep Singh and others v. State of

Punjab and others (CWP No.10994 of 2006 decided on 13.11.2006). The aforesaid VI steps in the process of selection adopted by the respondents have been approved by this Court in Mandeep Singh's case (supra). It has been held that the aforesaid steps are in consonance with Rule 11 of 2006 Rules.As per the steps approved on consideration with higher merit in the process of selection has a superior right for appointment. Any process of selection wherein higher merit (out of the same category) is overlooked would be violative of Articles 14 and 16 of the Constitution of India. It is not the case of the petitioner that the steps envisaged for selection and appointment against the post of E.T.T.teacher, as have been noticed in Mandeep Singh's case (supra), were not followed in the petitioner's case. Merely because the petitioner belongs to a particular village cannot vest any right in the petitioner to be appointed on a vacancy in that village. The aforesaid right would obviously flow to the petitioner in consonance with the steps formulated by the respondents. Since it is not even the case of the petitioner that a candidate with lesser marks in the process of selection than the petitioner has been appointed, so as to overlook the higher merit of the petitioner. The claim of the petitioner is clearly misconceived and as such liable to be rejected.

Dismissed.

(J.S.Khehar)
Judge

(Sham Sunder)
Judge

December 4, 2007

rk